IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

WP(C).No. 28232 of 2007(J)

PETITIONER:

PASTOR K.C.THOMAS,
STATE SECRETARY, I.P.C.KERALA COUNCIL,
P.B.22, HEBRON, KUMBANAD,
KERALA, INDIA-689547.

BY ADV. SRI.A.K.ABDUL AZEEZ

RESPONDENTS:
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1. ASST. SALES TAX OFFICER,
ETTUMANOOR.

2. TAHSILDAR,
DISTRICT OFFICE,
KOTTAYAM.

3. DISTRICT COLLECTOR,
KOTTAYAM.

4. VILLAGE OFFICER,
PEROOR.

5. SHEENA THOMAS,
D/O THOMAS,
MINI VILLA, KOTTAYAM TALUK,
PEROOR VILLAGE.

6. MINI MOL, D/O THOMAS,
MINI VILLA, KOTTAYAM TALUK,
PEROOR VILLAGE.

7. N.K.MARY, W/O THOMAS,
MINI VILLA, KOTTAYAM TALUK,
PEROOR VILLAGE.

BY GOVERNMENT PLEADER SRI.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 28232 OF 2007 J
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Dated this the 11th day of December, 2007

J U D G M E N T

The prayer sought for in this writ petition is to direct the respondents to effect mutation of the petitioner's property and for directing them to realise the amount due from the respondents 5 to 7. Petitioner submits that on 10/8/95, by Ext.P1 document, petitioner purchased certain properties and an application for effecting mutation was filed, but mutation was not effected on the ground that vendor had certain undischarged tax liability. It is thereupon that the petitioner submitted Ext.P4 and filed this writ petition praying for the reliefs that are mentioned above.

2. The respondents have filed a statement, in which they have detailed the liability of the vendor for the period from 1990-1991 to 1995-96. It is also stated that though appeals were filed for the years 1990-1991 to 1992-93, these were also dismissed and for the remaining period, appeals were not being filed. It is stated that during the pendency of the proceedings, respondents 5 to 7 executed P1 sale deed on 10/8/95, which transfer

according to the respondents is void in law.

3. I have considered the submissions made by both sides.

4. It is a fact that the vendor had incurred liability for the period from 1990-1991 till 1995-96. If that be so, by virtue of the provisions contained in Section 26A of the KGST Act, such transfer has to be treated as void. That apart, by virtue of Section 26B such liability shall be the first charge on property also. If that be the position, the respondents are perfectly justified in declining to effect mutation. The relief sought for by the petitioner cannot be granted. Regarding the prayer for directing the respondents to recover the dues from the transferors who are defaulters, I should hold that since there is change over the property, the respondents cannot be faulted for proceeding against the property. Hence that prayer also cannot be granted.

Writ petition fails and is dismissed.

ANTONY DOMINIC, JUDGE.

Rp